

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

REGULAR MEETING – MAY 13, 2002

JUDGE WELSH HEARING ROOM

Mary-Jo Avellar, Chairman opened the meeting 6:00 PM noting the following attendees: Board of Selectmen members: Mary-Jo Avellar, Cheryl Andrews, Michele Couture, Sarah Peake, Richard Olson

Other attendees: Town Manager Keith Bergman, Assistant Town Manager Mark Latour

Recorder: Secretary to Board of Selectmen Vernon Porter

The following are meeting minutes, in brief.

1A1 PUBLIC HEARING; AQUACULTURE GRANT APPLICATION

Surf Clam Aquaculture Grant Application of John Baldwin

MOTION: Move that the Board of Selectmen vote to approve the Shellfish Aquaculture Grant Application of John Baldwin for a two acre section of Provincetown Harbor as shown on a map titled “Provincetown Aquaculture Grant Application – Subtidal Site (04/2002).”

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

1A2 PUBLIC HEARING; AQUACULTURE GRANT TRANSFER

Transfer of Aquaculture Grant #3 to Robert L. Brundage

MOTION: Move that the Board of Selectmen vote to approve the transfer of commercial Aquaculture Grant #3 from Molly Benjamin to Robert L. Brundage, for an area bounded by the former Graudel grant to the east, and by the former Tremblay-Osiuski grant to the west, as identified in a map on file in the Office of the Town Clerk dated 04/2002 & titled “Tract #3.”

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

1B PUBLIC NOTICE; FLOAT SPACE 8W, INC

Transfer of Ownership Interest from Peter Pannoni to Gabriel Brooke

MOTION: Move that the Board of Selectmen vote to in accordance with Special Condition No. 7 of the Chapter 91 License for MacMillan Pier issued October 23, 1995, to approve the proposed transfer of ownership interest in the MacMillan Pier Float Space 8W Licensee, Float Space 8W, Inc., from Peter Pannoni to Gabriel Brooke.

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

2. PUBLIC STATEMENTS

Jason Perry – Presented Board with pamphlet as he is making a statement as well as a public complaint regarding the Town Manager Mr. Bergman – the ‘Top Cop’. Feels that the Police are harassing him and his grandparents illegally. And that the papers that he presented the board speak for themselves. He is holding Mr. Bergman responsible. In his opinion this matter is a puppet pulled by strings of gold by Mr. Bergman. “I honestly feel that Mr. Bergman is Hitler and that this gentleman, the Chief of Police, is the head of the Gestapo

and that me and my family are the innocent Jews. This is really how I feel. We are demanding that you people do something – that we have some sort of vote on this – whether we need petitions, protest – whatever you guys prefer. Basically, I am bringing this man to justice. I am calling him out as a dirty politician that I believe he is and many others know that he is. I’m calling out Mr. Bergman the Top Cop. This is not right what is going on in this town and something is going to change. Now, I expect to hear from the Selectmen to write us officially to let us know what is going on. The signs are not coming down. It is private property. People say how long are you going to stay out there? Well, I’m going to stay out there until I’m dead or these gentlemen are no longer running the Town. This man is trying to take the town away from everyone. A lot of people never even bothered to register to vote in the town because we didn’t think it would change anything – but now I’m registering people to vote in my yard and everything else. We’re going to have something happen here. Thank you very much.”

Peter Sousa – Welcomed the new selectmen and Michele Couture for being re-elected. Also Mary-Jo Avellar for being elected Chairman. Felt that the previous speaker is a good example of the First Amendment Rights and all that we must be tolerant and patient. Came tonight to speak about the local newspaper in town. He feels that the Banner is not fair or objective and is running the town. Encroachment of leaching area – cemetery area – would like the Selectmen to expedite this matter. De-vegetation and taking of trees down was supposed to be at a minimum and what we are seeing is at a maximum. I hope these matters can be corrected in a timely matter.

Claudia Thomasian - I have been the target of one of Mr. Perry’s signs. Just to comment on his remark on special treatment to business owners. Before I opened my business I worked hard and long for several people in this town. I resent his attacks on the Police force, on the Town Manager and especially on me. The Police, the Town Manager and everyone else have been there to back me up and support me and to help me through this. Even though it was nothing but lies that were supposedly said and sent to the Board of Selectmen and the Town Manager, we can back up with paperwork the truth. Welcome to everybody new and congratulations to Michele and Richard Olson.

3. SELECTMEN’S STATEMENTS

Michele Couture

Welcome to the new members. Congratulations to Mary-Jo Avellar on becoming Chair.

What is the update on the Habitant for Humanity Project? Keith - they were downsizing the project to put it on the site. Michele – can we get a report?

Mary-Jo Avellar left the room.

MOTION: Move that the Board of Selectmen vote to instruct the Chair to send a letter to the Gay Men’s Domestic Violence Project denying them the use of the Pier for the ‘Birdman Event’.

**Motion by: Michele Couture Seconded by: Sarah Peake
Yea 3 Nay 1 (Cheryl Andrews)**

Mary-Jo Avellar returned.

Fall Arts Festival letter dated 5/8/02 – Will we be returning money back to VSB (\$10,000?). Comments by: Ms. Joan Lenane, member of the VSB - we were made aware that they were returning the money after our last meeting. At our next meeting on June 11, 2000, as a member of the board and certainly not for the board, I would strongly suspect that we will take it up as an agenda item.

Normally we do not respond to public statements but Mr. Perry was so outrageous and so insulting regarding Mr. Bergman’s integrity and the integrity of the Police Department – I just want to have it in the record and his comparison to him being a Jew and the Holocaust, I find absolutely outrageous. I find this person’s remarks highly offensive.

Richard Olson

I am pleased to be here and want to thank everyone around this table for your warm welcome.

Sarah Peake

I echo Mr. Olson's words and thank everybody for your welcome and support and the mountains of documents I have received and spent the weekend reading. I'm starting to form ideas and have lots of questions to ask and I think as I get a feel for what is appropriate to raise during Selectmen's Statements and what's just a simple question for the Town Manager I'll have more to say during Selectmen's Statements, but this evening I will limit myself to these remarks. Thank you.

Cheryl Andrews

MOTION: Move that the Board of Selectmen vote to ask staff to: 1) provide a report as to what extent have we gotten any rendering of the appearance of the wastewater disposal area when we get finished and 2) is what our plans are as to which of those leach fields will be suitable for parking?

Motion by: Cheryl Andrews Seconded by: Michele Couture Yea 5 Nay 0

MOTION: Move that the Board of Selectmen vote to have the Chair present our two new members with our Town lapel pin at our next meeting.

Motion by: Cheryl Andrews Seconded by: Mary-Jo Avellar Yea 5 Nay 0

Mary-Jo Avellar

I see that Robert Russell is going to be acting Staff Sgt so, I was curious who was going to be prosecuting? Chief Meyer – We have advertised for this position (Union posting.)

Notice to Superintendent of Schools – re: Projects and the Money – now it appears it is going to take longer to get our money back? Keith - that is the issue we are trying to track down. Schedule for the 6.5 is unchanged 5-9 years but the \$500K takes a different spot at the end of the line (17 years). (MJA – Has the Finance Committee been made aware of this? KB – Once I get an answer I will share it with them.)

Letter from Executive Office of Transportation and Construction regarding the discontinuance of Route 6 which is fine for the sewer system but that they are not going to consider the land for the Manor until completion of the discontinuance of the property for the sewer system then the Town should notify DCAM of its intentions. Keith - That letter appears to be a response to the second letter you wrote to the Governor in February. At the time we were asking the Governor to take administrative action. Since then Town Meeting has filed Legislation which has been signed a number and will be subject of a public hearing before a Legislative Committee. What that letter is doing is putting us on notice about what we already knew – that there are issues dealing with the Administration and we have chosen the Legislation route. We have also heard this afternoon that Henri Rauschenbach as agreed to schedule a meeting for us on that project to help us move forward. (MJA – *Is this something the Board of Selectmen should plan on attending.* KB – *Yes. We're looking early June – no date has been set as of yet – but it will be in Boston.*)

MOTION: Move that the Board of Selectmen vote to request a report on the encroachment question regarding Area E at the Provincetown Cemetery that was referred by Peter Souza.

Motion by: Mary-Jo Avellar Seconded by: Cheryl Andrews Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to authorize acceptance of grants of \$2,979,000 and \$231,700 from the Federal Aviation Administration and the Mass. Aeronautics Commission, respectively, for the project to reconstruct, mark and light Runway 7-25 at Provincetown Municipal Airport.*

Motion by: Cheryl Andrews **Seconded by:** Michele Couture Yea 5 Nay 0

4A2 AIRPORT COMMISSION: RUNWAY PROJECT

Executive Grant-funded Construction Contract: Lawrence Lynch \$2.8-M

MOTION: *Move that the Board of Selectmen vote to award and authorize execution of a construction contract with low bidder Lawrence- Lynch Corporation of Falmouth, Mass. in the amount of \$2,893,482 for the project to reconstruct, mark and light Runway 7-25 at Provincetown Municipal Airport.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews Yea 5 Nay 0

4A3 AIRPORT COMMISSION: RUNWAY PROJECT

Engineering Administration Services: Edwards & Kelcey, Inc. \$196,105

MOTION: *Move that the Board of Selectmen vote to approve the execution of a contract with Edwards & Kelcey, Inc. of Boston, Massachusetts in the amount of \$196,105 for professional engineering services for the project to reconstruct, mark and light Runway 7-25 at the Provincetown Municipal Airport.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews Yea 5 Nay 0

4B LOWER CAPE COD COMMUNITY DEVELOPMENT CORP

Support for FY 2003 CEED Grant Application

MOTION: *Move that the Board of Selectmen vote to authorize the Chairman to send a letter of support to the Massachusetts Department of Housing and Community Development under its Community Enterprise Economic Development (CEED) program for a grant application for operating funds for the Lower Cape Cod Community Development Corporation.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews Yea 5 Nay 0

Mary-Jo Avellar left the room due to conflict, as her mother is an abutter.

4C1 REQUEST: CONWELL STREET, LLC

Affordable Housing Deed Restriction: 32 Conwell Street

MOTION: *Move that the Board of Selectmen vote to accept and execute an Affordable Housing Deed Restriction with Conwell Street LLC, a Massachusetts limited liability company with its principal place of business at Community Housing Resources, Inc., Provincetown, for affordable rental housing units at 32 Conwell Street, as approved as to form by Town Counsel.*

Motion by: Michele Couture **Seconded by:** Sarah Peake Yea 4 Nay 0

4C2 **REQUEST; CONWELL STREET, LLC**
Accept of Bikepath/Sidewalk Easements; 32 and 34 Conwell Street

MOTION: *Move that the Board of Selectmen vote to accept a grant of easement from Edward Malone and Conwell Street LLC to create a sidewalk and bikepath along Conwell Street, 12 feet wide along the frontage of 32 and 34 Conwell Street, as approved as to form by Town Counsel; and further to vote its intention, pursuant to MGL C.82, §§17 and 21, to lay out said sidewalk and bikepath, and to refer the matter to the Planning Board for its recommendation under MGL C.41, §§81G and 81I.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews Yea 4 Nay 0

Mary-Jo Avellar returned.

4D **PARADE PERMIT; CARRIE A. SEAMAN ANIMAL SHELTER**

MOTION: *Move that the Board of Selectmen vote to approve the Parade Permit Application submitted by Susan Wasson of Provincetown, MA on behalf of the Carrie A. Seaman Animal Shelter for a charity Annual Pet Walk to be held on Sunday, September 22, 2002 starting at 2 PM and ending by 3 PM.*

Motion by: Michele Couture **Seconded by:** Richard Olson Yea 5 Nay 0

4E **REQUEST: ESTATE OF MARY TOWNE**

Convey Town's Interest in 12 Franklin Street

MOTION: *Move that the Board of Selectmen vote in the matter of the Estate of Mary Towne to pursue Option 2, as outlined in Town Counsel's May 7, 2002 opinion letter, to convey the Town's interest in a 6,917 square foot parcel of land at 12 Franklin Street, as recommended by the Principal Assessor and the Town Manager.*

Motion by: Michele Couture **Seconded by:** Sarah Peake Yea 5 Nay 0

5A1 **DPW SERVICE CONTRACTS FOR FY 2003**

Paving with Bituminous Concrete: Tilcon Capaldi, Inc..

MOTION: *Move that the Board of Selectmen vote to execute a contract with low bidder Tilcon Capaldi, Inc. of Swansea, MA for the provision of bituminous concrete to the Town of Provincetown for Fiscal Year 2003 at a cost of: \$52.40 per ton delivered in place and for berms to be laid in place; \$7.00 per lineal foot for bituminous concrete curb to be laid in place; and \$98.00 per ton for handwork (sidewalks and driveway approaches).*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews Yea 5 Nay 0

5A2 **DPW SERVICE CONTRACTS FOR FY 2003**

Heating Oil No. 2: Cape Cod Oil

MOTION: *Move that the Board of Selectmen vote to execute a contract with sole bidder MJT Enterprises c/b/a Cape Cod Oil Co. of Provincetown, MA for the provision of heating oil #2 to the Town of Provincetown for Fiscal Year 2003 at a cost of Boston Journal of Commerce "low price" plus mark-up of 19.9¢ (\$0.199).*

Motion by: Michele Couture

Seconded by: Cheryl Andrews

Yea 5 Nay 0

5A3 DPW SERVICE CONTRACTS FOR FY 2003

Municipal Solid Waste Hauling Services: J & L Enterprises

MOTION: Move that the Board of Selectmen vote to execute a contract with J & L Enterprises, Inc. of Truro for the provision of municipal solid waste hauling services for Fiscal Year 2003 from the Provincetown Transfer Station to the SEMASS facility in Rochester, MA, including provision of one yard truck, keeping trailers on a maintenance schedule, changing flat tires, and providing an additional trailer during the summer, for the contract price of \$315 per round trip.

Motion by: Michele Couture

Seconded by: Cheryl Andrews

Yea 5 Nay 0

5A4 DPW SERVICE CONTRACTS FOR FY 2003

Removal of Recyclables: J & L Enterprises

MOTION: Move that the Board of Selectmen vote to execute a contract with sole bidder J & L Enterprises of Truro, MA, for the provision of recycling services to the Town of Provincetown for Fiscal Year 2003 at the rate of \$1.64 per mile for mixed paper, corrugated cardboard, glass, metal cans, and HDPE plastic, and with scrap metal removed at \$25 per ton.

Motion by: Michele Couture

Seconded by: Cheryl Andrews

Yea 5 Nay 0

5A5 DPW SERVICE CONTRACTS FOR FY 2003

Septage Removal: EZ Doze It

MOTION: Move that the Board of Selectmen vote to execute a contract with low bidder EZ Doze It of Wellfleet, Massachusetts for provision of septage removal services to the Town of Provincetown for Fiscal Year 2003 at a rate of 6.25¢ per gallon exclusive of the Tri-Town tipping charge.

Motion by: Michele Couture

Seconded by: Cheryl Andrews

Yea 5 Nay 0

5B FY 2003 TOWN-WIDE GOAL-SETTING PROCESS

Adopt Timetable and Meeting Schedule

MOTION: Move that the Board of Selectmen vote to adopt the timetable for the FY 2003 Annual Town-wide Goal Setting Process as proposed by the Town Manager, including the scheduling of a special board meeting on Monday, June 3, 2002 and a public hearing on Monday, June 17, 2002 at 6 p.m.

Motion by: Michele Couture

Seconded by: Cheryl Andrews

Yea 5 Nay 0

5C WATER UPDATE

DPW Director's Report on May 1, 2002 Water Incident

Open discussion. No motions made. See attached report.

5D **SUMMER POLICE OFFICER HOUSING AT USCG**

Establish Special Gift Fund to Receive Officers' Rent and Pay USCG

MOTION: *Move that the Board of Selectmen vote, pursuant to MGL Chapter 44, section 53A, to establish a special gift fund to receive rental proceeds from summer police officers, with the balance in said fund to be expended without further appropriation by the Police Department to reimburse the United States Coast Guard for housing operations and maintenance services provided to the Provincetown Police Department.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews **Yea 5 Nay 0**

5E **CHAPTER 91 AMNESTY COMMITTEE**

Request to meet with the Board of Selectmen

Tabled to time to be determined.

6A **MUNICIPAL PURPOSE BOND ANTICIPATION NOTE #1008**

MOTION: *Move that the Board of Selectmen vote to issue Bond Anticipation Note #1008 in the amount of \$2,000,000.00 dated May 14, 2002 at 2.35% interest payable at maturity to Cape Cod Bank & Trust Co. on March 27, 2003.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews **Yea 5 Nay 0**

6B **MUNICIPAL PURPOSE BOND ANTICIPATION NOTE #1009**

MOTION: *Move that the Board of Selectmen vote to issue Bond Anticipation Note #1009 in the amount of \$576,000.00 dated May 14, 2002 at 2.35% interest payable at maturity to Cape Cod Bank & Trust Co. on December 10, 2002.*

Motion by: Michele Couture **Seconded by:** Cheryl Andrews **Yea 5 Nay 0**

7. **BOARD OF SELECTMEN'S RULES OF PROCEDURES**

Adoption, Consideration of Amendments

MOTION: *Move that the Board of Selectmen vote to schedule adoption of the Rules of Procedure for its next regular meeting on Tuesday, May 28, 2002, with any proposed amendments to be submitted in writing to the secretary by Tuesday, May 22, 2002.*

Motion by: Cheryl Andrews **Seconded by:** Sarah Peake **Yea 5 Nay 0**

8. **BOARD OF SELECTMEN APPOINTMENTS**

MOTION: *Move that the Board of Selectmen appoint Stephen Borkowski as an Alternate Member of*

the Art Commission with an expiration date of December 31, 2002.

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen appoint David Lindstrom as a Regular Member of the John Anderson Francis Family Scholarship Committee with an expiration date of December 31, 2002.*

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to interview candidates for any regulatory boards (Licensing, Planning, Zoning Board of Appeals) starting with the next regular schedule meeting on May 28, 2002.*

Motion by: Michele Couture Seconded by: Sarah Peake Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to have as the first agenda item at their next regular schedule meeting on May 28, 2002 – ‘Interview Candidates for Town Boards’.*

Motion by: Michele Couture Seconded by: Sarah Peake Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to interview the candidates for the Local Housing Partnership at the next regular scheduled meeting on May 28, 2002.*

Motion by: Michele Couture Seconded by: Sarah Peake Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen vote to interview the candidates for the Open Space Committee at the next regular scheduled meeting on May 28, 2002.*

Motion by: Sarah Peake Seconded by: Richard Olson Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen appoint Rob Tosner as the PBG Representative on the Visitor Services Board with an expiration date of December 30, 2005..*

Motion by: Sarah Peake Seconded by: Michele Couture Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen appoint Stephen Melamed as a Regular Member of the Visitor Services Board with an expiration date of December 30, 2005.*

Motion by: Sarah Peake Seconded by: Cheryl Andrews Yea 5 Nay 0

MOTION: *Move that the Board of Selectmen appoint Barbara Rushmore as a Regular Member of the Visitor Services Board with an expiration date of December 30, 2005.*

Motion by: Sarah Peake Seconded by: Cheryl Andrews Yea 5 Nay 0

9. MINUTES OF BOARD OF SELECTMEN’S MEETINGS

MOTION: *Move that the Board of Selectmen approve the minutes of April 3, 2002 (Town Mtg.) as printed.*

Motion by: Michele Couture Seconded by: Cheryl Andrews

Yea 3 Nay 0 Abstain 2 (Sarah Peake/Richard Olson)

MOTION: *Move that the Board of Selectmen approve the minutes of April 22, 2002 (Reg. Mtg.) as printed.*

**Motion by: Michele Couture Seconded by: Cheryl Andrews
Yea 3 Nay 0 Abstain 2 (Sarah Peake/Richard Olson)**

MOTION: *Move that the Board of Selectmen approve the minutes of April 26, 2002 (Vernon's Re-evaluation) as printed.*

**Motion by: Michele Couture Seconded by: Mary-Jo Avellar
Yea 2 Nay 0 Abstain 3 (Cheryl Andrews/Sarah Peake/Richard Olson)**

MOTION: *Move that the Board of Selectmen approve the minutes of May 10, 2002 (Board Reorg.) as printed.*

Motion by: Michele Couture Seconded by: Cheryl Andrews Yea 5 Nay 0

8. CLOSING STATEMENTS

Michele Couture

Mary-Jo Avellar left the room.

MOTION: *Move that the Board of Selectmen vote to schedule 'unresolved issues with the Whydah' as a future agenda item.*

**Motion by: Michele Couture Seconded by: Sarah Peake Yea 4 Nay 0
Mary-Jo Avellar returned.**

Richard Olson

When will we likely be discussing MacMillian Pier again and the sub-lease to Profish? Keith – We need to do that within a month.

I want to disclose that I have my Aunt Louise in the Manor. Keith – the best way to handle it is to make a written disclosure under Section 19 Chapter 268A and putting it on file at the Town Clerk's office.

Sarah Peake

June 4th – Jamaican Bobsled Parade – is there going to be a jeep in the parade?

Parking situation this summer with the Grace Hall, High School lot & Jerome Smith lot. Can we open up a dialogue with the school to talk about parking? . Keith – Yes, we will meet with them as we have some questions also.

What is the cost to the town for these spaces in terms of lost revenue. (If the school wants to take that money.) (KB – Don Richards will do this.)

Cheryl Andrews

Congratulations, you ran a heck of a nice meeting.

Motion to adjourn by Michele Couture at 8:33 PM

Minutes transcribed by: Vernon Porter, Secretary
May 17, 2002